

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

MARK EDWARD MILLER,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:15-CV-49
(GROH)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) [ECF No. 29] of United States Magistrate Judge Robert W. Trumble, which was issued on December 17, 2015. In the R&R, Magistrate Judge Trumble recommends that this Court grant the Defendant’s Motion for Summary Judgment [ECF No. 26] because substantial evidence supported the Administrative Law Judge’s denial of the Plaintiff’s application for benefits. Magistrate Judge Trumble further recommends that the *pro se* Plaintiff’s Complaint [ECF No. 1] be dismissed.

In reviewing an R&R, this Court is required, pursuant to 28 U.S.C. § 636, to conduct a *de novo* review of those portions of a magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a party’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder

v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984); Webb v. Califano, 468 F. Supp. 825, 830-31 (E.D. Cal. 1979). Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(d), 72(b). After an initial attempt to mail a copy of the R&R to the *pro se* Plaintiff proved unsuccessful, the Court determined that the Plaintiff was being held at the Eastern Regional Jail ("ERJ") in Martinsburg, West Virginia. The Court directed the Clerk to send a copy of the R&R to the ERJ. Subsequently, the Court received notice that receipt of the R&R was accepted at the ERJ on January 7, 2016. Accordingly, taking into account a reasonable period of delay to ensure personal receipt of the R&R, the Court finds that the deadline to file objections to the R&R has passed. As of the date of this Order, no objections have been filed.

Upon careful review of the R&R and the entire record in this case, the Court finds no clear error. Accordingly, it is the opinion of this Court that the Report and Recommendation [ECF No. 29] should be, and is, hereby **ORDERED ADOPTED**. The Court **ORDERS** that the Defendant's Motion for Summary Judgment [ECF No. 26] is **GRANTED**. The Court further **ORDERS** that this matter be **DISMISSED WITH PREJUDICE** and that it be retired from this Court's active docket.

Pursuant to Federal Rule of Civil Procedure 58, the Clerk is **DIRECTED** to enter a separate judgment order in favor of the Defendant.

The Clerk is further **DIRECTED** to transmit copies of this Order to all counsel of record herein and to the *pro se* Plaintiff at the Eastern Regional Jail in Martinsburg, West

Virginia.

DATED: February 19, 2016

A handwritten signature in blue ink, appearing to read "Gina M. Groh", is written over a horizontal line.

GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE